



02-29-08

11 Feb 08

PTO/SB/21 (01-08)

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Application Number	09/330,963
Filing Date	June 11, 1999
First Named Inventor	Richard Earl McNutt et al.
Art Unit	3714
Examiner Name	Tramer Young, Harper
Attorney Docket Number	ODS-6

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PATENTS

Attorney Docket No. ODS-6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellants : Richard Earl McNutt et al.
Application No. : 09/330,963 Confirmation No. : 1075
Filed : June 11, 1999
For : METHODS AND SYSTEMS FOR INTERACTIVE
WAGERING USING MULTIPLE TYPES OF USER
INTERFACES
Art Unit : 3714
Examiner : Tramar Yong Harper

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February 27, 2008

REPLY BRIEF

Sir:

Pursuant to 37 C.F.R. § 41.41(a), appellants are filing this Reply Brief in reply to the Examiner's Answer dated December 31, 2007 (hereinafter "the Examiner's Answer"), and in support of their appeal from the rejection of claims 1-9, 11, 12, 15-25, 27, 28, and 31-94 in the Office Action dated November 13, 2006. Appellants previously filed an Appeal Brief on September 7, 2007 (hereinafter "Appeal Brief") and a Supplemental Appeal Brief on November 16, 2007 in connection with this case.

REMARKS

I. Introduction

Appellants maintain the position that claims 1-9, 11, 12, 15-25, 27, 31-42, 44-55, and 57-94 of the present application are patentable over Dahl PCT Publication No. WO 97/28636 (hereinafter "Dahl") in view of Brenner U.S. Patent No. 5,830,068 (hereinafter "Brenner"). Appellants further maintain the position that claims 12, 28, 43, and 56 of the present invention are patentable over Dahl in view of Brenner in further view of Sakanishi et al. U.S. Patent No. 5,042,063 (hereinafter "Sakanishi"). Appellants submit that the Examiner's Answer is insufficient as a matter of law to uphold the prior art rejections for at least the reasons set forth in appellants' Appeal Brief. Appellants have filed this Reply Brief to address new comments in the December 31, 2007 Examiner's Answer and to further demonstrate the patentability of pending claims 1-9, 11, 12, 15-25, 27, 28, and 31-94.

II. Summary of the Examiner's Answer

The Examiner's Answer maintains the § 103(a) rejection of claims 1-9, 11, 12, 15-25, 27, 28, and 31-94 from the November 13, 2006 Office Action and restates the same grounds of rejection from that Office Action.

The Examiner's Answer also provides a "Response to Arguments" section that attempts to rebut some of the arguments presented in appellants' Appeal Brief.

III. Summary of the Appellants' Reply

Appellants' Appeal Brief fully addresses the grounds of rejection stated in the November 13, 2006 Office Action.

This Reply Brief addresses the Examiner's comments on appellants' arguments contained in the Appeal Brief.

Appellants submit that the Board should find the rejections of claims 1-9, 11, 12, 15-25, 27, 28, and 31-94 to be in error and should reverse the Examiner.

IV. Appellants' Reply to the Examiner's Answer

Appellants submit that the Examiner's Answer is insufficient to uphold the 35 U.S.C. § 103(a) rejections of claims 1-9, 11, 12, 15-25, 27, 28, and 31-94 at least because one skilled in the art would not find it obvious to modify Dahl to include the interactive television wagering terminal of Brenner. In the "Response to Arguments" section of the Examiner's Answer, the Examiner makes several contentions about what the prior art purportedly shows or suggests. Appellants will address each of the Examiner's contentions below.

A. Dahl Does Not Disclose or Reasonably Suggest the Use of Two-Way Television Links in his System

The Examiner concedes in the Examiner's Answer that "the Dahl reference fails to disclose explicitly a television wagering control system that receives wagering information from a television wagering terminal" (Examiner's Answer, page 8). The Examiner further agrees with appellants that "Dahl is clear on, but limited to, only using one-way television lines with respect to the television wagering terminal disclosed." *Id.* Accordingly, the Examiner concedes that Dahl does not disclose the use of two-way television links in his system.

Further, as explained in appellants' Appeal Brief, Dahl is very clear about the one-way nature of his television links and the "minimum requirement" of a telephone to contact the central gambling unit. See Appeal Brief, pages 7-10. Any attempt to insert a two-way

television link into Dahl's system would be contrary to the disclosure of Dahl itself.

Nevertheless, the Examiner continues to allege in the Examiner's Answer that Dahl provides motivation for one of skill in the art to combine Dahl's system with a system that uses two-way television links. The Examiner appears to rely on three different sections of Dahl in support of his allegation. Appellants respectfully disagree that these sections would make it obvious for one of skill in the art to add two-way television links to Dahl.

The first section of Dahl the Examiner cites to is a discussion of Remillard U.S. Patent 5,404,393 (see Dahl, page 1, lines 7-16). The Examiner in the Examiner's Answer concedes that Dahl does not incorporate by reference Remillard (See Examiner's Answer, page 8). Nevertheless, the Examiner states that Dahl uses Remillard as an example of an interactive television system that is used for participation in activities in general. While Dahl refers to Remillard as an example of prior art, Dahl states that the prior art is limited and distinguishes his invention over the prior art (see Dahl, page 1; see also Appellants' Appeal Brief, page 9). Accordingly, appellants submit that one of skill in the art would not look to Remillard and its interactive television system to modify Dahl's system.

The second section of Dahl the Examiner cites to refers to partly one-way, partly two-way communications (see Dahl, page 2, lines 6-15). Specifically, Dahl states:

The gambling station according to the present invention is adapted to establish, partly one-way, partly two-way communications via a telecommunication network such as the public telephone network, direct transmission lines and television links.

The Examiner in the Examiner's Answer states that "[a]lthough it is not explicitly disclosed how the system establishes two-way communication via television links, it is clearly implied that it is capable of such" (Examiner's

Answer, pages 10-11). Appellants respectfully disagree that this section of Dahl discloses either (1) using two-way communication via television links or (2) implies that Dahl is capable of such communication. Rather, as demonstrated in the Appeal Brief, Dahl's discloses using only one-way television links (see Appeal Brief, page 9). Moreover, some of the other types of links disclosed in Dahl are two-way links. Therefore, appellants believe that Dahl's use of "one-way" in the above quote refers to the television links. There is nothing in Dahl to support the Examiner's position that Dahl implies the use of two-way television links in his system.

The third section of Dahl the Examiner cites to is a statement regarding missing details from Dahl's figures. (see Dahl, pages 2-3). As stated in appellants' Appeal Brief, this section of Dahl states that well known details and techniques are not shown in the figures and that the inclusion of these details and techniques would not extend the scope of the invention. Dahl's figures include television links and television terminals and Dahl's specification teaches using only one-way television links, as conceded by the Examiner. Thus, the inclusion of known details and techniques for implementing one-way television links would not extend the scope of Dahl's invention.

The Examiner, however, continues to "interpret" this section of Dahl in a way that goes far beyond its actual disclosure (See Examiner's Answer, page 9). The Examiner first alleges that this section of Dahl means that "interactive television terminals similar to Remillard ... could be included" in Dahl's system (Examiner's Answer, page 9). The Examiner further alleges that this section of Dahl "would motivate one skilled in the art to combine a television wagering terminal (Brenner) with Dahl" (Examiner's Answer, page 9). Applicants strongly disagree with the Examiner's allegations. The allegations do not simply fill in missing details or techniques from Dahl's

figures. Rather, the replacement of Dahl's one-way television terminals with television terminals (from either Remillard or Brenner) that use two-way television links would change Dahl and go beyond Dahl's disclosed invention. Such a change is simply not supported by this section of Dahl.

In view of the foregoing, none of the sections the Examiner relies on in Dahl provide any motivation or suggestion for one of skill in the art to combine Dahl's system with a system that uses two-way television links and terminals.

B. The Examiner's Statements Regarding Brenner

The Examiner in the Examiner's Answer states that "Brenner teaches in the background a television wagering terminal that consists of a telephone and a LCD display (similar to Dahl's wagering terminal) (Col. 1:39-41)" (Examiner's Answer, page 12). This section of Brenner, however, refers to a telephone wagering terminal with a limited LCD display, not a television wagering terminal. Dahl's wagering terminal includes a display that is either a television or a personal computer. The systems described in Brenner's background do not include a television or a personal computer and thus are not similar to Dahl.

The Examiner discusses the limitations of the systems described in Brenner's background section and alleges that Brenner's advantages over those systems would motivate one of skill in the art to modify Dahl with Brenner's television wagering terminals. Brenner's advantages, however, already exist in Dahl's system and would not provide any motivation for one of skill in the art to modify Dahl. Appellants explained this in detail in the Appeal Brief and the Examiner did not address those comments in the Examiner's Answer (see Appeal Brief, pages 12-14).

Appellants will address the Examiner's statements in the Examiner's Answer briefly below.

The Examiner states that Brenner "implies that [Brenner's] system/interface decreases or eliminates the amount of connect time via telephone lines" (Examiner's Answer, page 12). Dahl's system, however, already provides the same advantage because the use of the television in Dahl to display information can also decrease the amount of connect time via telephone lines and Dahl's personal computer terminal eliminates the amount of connect time when using, for example, the disclosed ISDN line.

The Examiner further states that Brenner provides a greater amount of wagering information "by providing a terminal that provides wagering data to the terminals by using a medium other than telephone lines" (Examiner's Answer, page 12). Dahl's system also provides the same advantage by using television lines and the Internet to provide wagering data to a television and a personal computer, respectively.

In view of the foregoing, and as explained in more detail in the Appeal Brief, the Examiner has failed to identify any sufficient reason in Brenner or provide any sufficient analysis why one of skill in the art would have found it obvious to combine Dahl's system with Brenner's wagering terminal.

V. Conclusion

For at least the foregoing reasons, as well as the reasons set forth in appellants' Appeal Brief, appellants submit that the Board should find the § 103(a) rejections of claims 1-9, 11, 12, 15-25, 27, 28, and 31-94 to be in error and should reverse the Examiner.

Respectfully submitted,



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